IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 1468 of 2007(Y)

PETITIONERS:

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1. **P.N. SREEDHARAN,**
   RETIRED SENIOR SUPERINTENDENT (NON CADRE)
   ELECTRICITY DEPARTMENT,
   THRISSUR CORPORATION.

2. **P. VASUDEVAN, RETIRED SENIOR**
   SUPERINTENDENT, ELECTRICITY DEPARTMENT,
   THRISSUR CORPORATION.

3. **R. GOPALA PILLAI,**
   RETIRED SENIOR SUPERINTENDENT (NON CADRE)
   ELECTRICITY DEPARTMENT, THRISSUR CORPORATION.

BY ADV. DR.K.P.SATHEESAN,
SRI.K.K.GOPINATHAN NAIR.

RESPONDENTS:

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1. **STATE OF KERALA, REPRESENTED BY**
   THE DIRECTOR OF URBAN AFFAIRS,
   THIRUVANANTHAPURAM.

2. **THE DEPUTY DIRECTOR,**
   O/O.LOCAL FUND AUDIT, CORPORATION AUDIT,
   THRISSUR.

3. **THE DIRECTOR, LOCAL FUND AUDIT**
   DEPARTMENT, VIKAS BHAVAN,
   THIRUVANANTHAPURAM.

4. **THE SECRETARY, THRISSUR COROPORATION,**
   THRISSUR.

W.P.(C). NO.1468/2007:

5. THE ASSISTANT SECRETARY,
ELECTRICITY DEPARTMENT,
THIRSSUR CORPORATION, THRISSUR.

BY R1 TO R3 SR. GOVERNMENT PLEADER SRI. NANDAKUMAR,
R4 & R5 SRI.K.B.MOHANDAS,SC,
ADV. SRI.LELLULAL T.G.THUNDATHIL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/11/2007 ALONG WITH W.P.(C). NO. 18531/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.1468/2007:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE RELEVANT PAGES OF THE GOVERNMENT ORDER G.O. (MS). NO. 206/2004/LSGD DTD. 23/06/2004.

EXT.P.2: COPY OF THE PENSION PAYMENT ORDER NO. P4-23985/01 DTD. 10/12/2001 ISSUED TO THE P.1.

EXT.P.3: COPY OF THE PAY FIXATION ORDER NO. L.F.T.R. C6-335/2004 DTD. 21/10/2004 ISSUED BY THE R.2.

EXT.P.4: COPY OF THE REPLY GIVEN BY THE R.3. TO THE R.2. DTD. 09/03/2005.

EXT.P.5: COPY OF THE ORDER NO. LF.21306/PEN.2/2006 DTD. 01/02/2006 ISSUED TO THE P.1.

EXT.P.6: COPY OF THE ORDER NO. LR.21312/PEN.2/2005 DTD. 02/02/2006 ISSUED TO THE P.2.

EXT.P.7: COPY OF THE ORDER NO. P4-287/06 DTD. 15/03/2006 ISSUED TO THE P.1.

EXT.P.7.A: COPY OF THE REVISED PENSION PAYMENT ORDER NO. P4/308/06 DTD. 22/03/2006 ISSUED TO THE P.2.

EXT.P.7.B: COPY OF THE ORDER NO. P4/307/06 DTD. 23/03/2006 ISSUED TO THE P.3.

EXT.P.8: COPY OF THE REPRESENTATION FILED BY THE P.1. BEFORE THE R.1. DTD. 01/12/2006.

EXT.P.9: -DO- FILED BY THE P.2. DTD. 20/11/2006.

EXT.P.10: -DO- FILED BY THE P.3. DTD. 20/11/2006.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

V.GIRI, J.

W.P.(C).No.1468 & 18531 of 2007

Dated this the 16th day of November, 2007.

JUDGMENT

Common issues arise in these cases. They have been heard together and are being disposed of by this common judgment. For convenience, W.P.(C)No.1468/07 is taken as the leading case.

2. Petitioners are retired Superintendents in the Education Department. First petitioner retired on 30.06.2001, the 2nd petitioner on 30.06.2002 and 3rd petitioner on 31.08.2001. Petitioner in W.P.(C) No.18531/07 retired on 31.03.2001. As per Ext.P1 Government Order, revision of pay and allowances ordered by the Government in respect of the Kerala State Electricity Board was made applicable to the employees of the Electricity wing of the Thrissur Corporation with effect from 1.7.1998. Accordingly, the petitioners were also given pension and terminal benefits which were calculated on the basis of pay revision made applicable to the employees of the Electricity Board. Pension was calculated on the basis of the last drawn salary and pension was fixed on the

basis of the revision effected under Ext.P1 applying the revision in the scales of pay made applicable to the employees of the Electricity Board. Petitioners contend that pursuant to Ext.P1 dated 23.9.2004; proposals were forwarded to the 2nd respondent for revision of pay and other allowances claiming parity with the employees of the Electricity Board. The date of increment insofar as the petitioners are concerned falls in August. But in implementing the pay revision orders, the next increment date was shown as 1.2.1999, which apparently was on account of the fact that petitioners were granted time bound higher grade in February of the year succeeding the pay revision. Ext.P3 is the pay fixation order issued by the 2nd respondent. But, in issuing the pay fixation order, it was noted that the date of increment in the case of petitioners was 1st August 1998, corresponding to the date of annual increment applicable to the petitioners, even prior to the implementation of the pay revision. Accordingly, pensionary and retirement benefits were calculated in such a manner as to give effect to the increment with reference to the date of actual increment of the petitioners, without taking

note of the fact that the petitioners became eligible to the next annual increment subsequent to the date of implementation of the pay revision orders only in February, 1998. Apparently, this was later rectified and consequent thereupon, notices for revision of pension payment orders and recovery of the excess amount were issued in relation to all the petitioners. It is thereupon the petitioners have approached this court.

3. Though several contentions have been raised in the writ petition, learned counsel for the petitioners submits that, at this stage, it would suffice that the 2nd respondent Director of Urban Affairs be directed to look into the petitioner's objections, which are Exts.P8, P9 and P10 relating to the petitioners.

4. After having heard learned counsel for the petitioners and standing counsel for the Thrissur Corporation, the Writ petitions are disposed of directing the Director of Urban Affairs, Thiruvananthapuram to look into Exts.P8, P9 and P10 in W.P.(C)No.1468/07 and Exts.P6 and P7 in W.P.(C) No.18531/07, hear the petitioners and take a decision

thereon within a period of 3 months from the date of receipt of a copy of this judgment. The contention of the petitioners that, at any rate, since they have retired in the year 2001/2002 and the erroneous fixation came about not on account of any contribution on their part and that they should not be called upon to refund the amount, which had been paid to them should also be considered by the Director.

Sd/-

(V.GIRI)

JUDGE

sk/

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